

REMARKS/ARGUMENTS

Claims 1-8, 12, 35-37, 40-44, 53, and 54 remain pending in the patent application filed On December 10, 2003. Claims 9-11, 13-34, 38-39, and 45-52 have been canceled as directed to subject matter allowed in patent application 09/671,916 filed September 28, 2000. No new matter has been added. Claims 1-8, 12, 35-37, 40-44, 53, and 54 of the parent application, were canceled in that application without prejudice or disclaimer in order to expedite prosecution of the allowed claims. Applicant now traverses the grounds for rejection of those claims, as detailed in the Office Action of October 23, 2002, in the parent application.

I. Amendments to the Specification

Applicants have added a paragraph cross-referencing priority parent application serial number, 09/671, 916, filed on September 28, 2000. No new matter has been added.

II. Overview of Invention

Applicant's invention is directed to a system for planning energy supply for energy consumers by negotiating an energy supply specification with one or more energy suppliers. A bi-lateral (or multi-lateral) negotiation process occurs, in which energy planning information is exchanged between an energy management system and one or more energy suppliers, each of which has a sub-system of the energy supply planning system operatively associated with it. An energy planning interface executes a routine for exchanging energy planning information over a communications network between the energy management system and energy supplier subsystems. The energy supply interface then permits negotiation of an energy supply specification from the energy suppliers on behalf of the energy consumers. Page 22, lines 6-22. Various other patentable features and elements are recited in the pending claims.

Takriti, the primary applied reference, does not relate to negotiation of energy supply specifications or energy planning information, but to a method for arriving at spot-market prices.

More particularly, it does not describe the recited, operatively associated sub-systems or their respective interfaces for negotiating an energy supply specification.

III. Rejection Under 35 U.S.C. § 102(e)

In the October 23, 2002, Office Action corresponding to the parent application (i.e., Serial No. 09/671,916), claims 1, 3-8, 12, 35-36, 40-44, and 53-54 were rejected as anticipated by U.S. 5,974,403 to Takriti et al. (hereinafter Takriti). Applicant respectfully submits that these rejections are traversed on the basis of the following arguments.

i. Claims 1, 3-8, and 12

Claim 1 was rejected on the grounds that Takriti allegedly discloses a system for planning energy supply for energy consumers, and that Takriti's system comprises both a first sub-system operatively associated with an energy coordinating body, and a second sub-system operatively associated with at least one energy supplier. In seeking to establish a basis for rejecting Applicant's claims, the Examiner cited col. 2, lines 30-35, and col. 3, lines 38-40 of Takriti.

Claim 1 is directed to a system for planning energy supply for energy consumers. The system includes a first sub-system operatively associated with at least one energy coordinating body (e.g., energy management system), and a second sub-system operatively associated with at least one energy supplier (e.g., electric power plant). Each sub-system has an interface for exchanging energy planning information with the other sub-system and for negotiating an energy supply specification with the at least one energy supplier for the energy consumers.

Takriti, however, does not appear to relate to a system having the recited limitations, but rather to a computer-implemented tool for forecasting spot-market prices for electrical power (col. 1, lines 18-21). Rather than contemplating a system for bilateral (or multilateral) negotiation via subsystems and associated interfaces, Takriti is limited to a tool for unilateral use by a single entity, viz. "(1) a utility or an independent power supplier...; or (2) a power broker" Takriti, Col. 3, lines 34-38.

Far from disclosing each and every claim element, as required to sustain an anticipation rejection, Takriti does not disclose so much as a single limitation of claim 1. Takriti's

forecasting tool is not, and does not suggest, a system that comprises sub-systems that negotiate an energy supply specification between energy suppliers and energy consumers. The Office Action relies on col. 3, lines 38-40 of Takriti as disclosing applicant's first sub-system, which, as recited, is operatively associated with an energy coordinating body. But col. 3, lines 38-40 of Takriti is directed to a power broker interested in buying and selling power in order to maximize revenues. This is not an "energy coordinating" body, but a mere point of sale. An energy coordinating body coordinates one or more requests in order to negotiate an energy supply specification. The Examiner is directed to page 17, lines 1-7, and page 18, lines 23-27, of applicant's specification. Takriti does not teach such coordination.

Takriti purports to be directed to an algorithm that builds probabilistic distributions for the spot-market prices and for the electricity trades in the system (col. 9, lines 28-34). Once a spot-market price has been calculated, Takriti would have to take advantage of applicant's claimed invention in order to even begin contemplating the negotiation of an energy supply specification from energy suppliers to energy consumers.

For the foregoing reasons, claim 1 is submitted to be patentable over Takriti, and therefore allowable. Claims 3-4 directly and indirectly depend from allowable claim 1, respectively, and therefore are also submitted to be allowable.

Claims 5 and 6 directly depend from allowable claim 1 and, therefore, are also submitted to be allowable. Moreover, claim 5 is directed to an energy management system. Takriti does not disclose or suggest an energy management system. As described above, the text at col. 3, lines 38-40 of Takriti relates to a power broker interested in buying and selling power in order to maximize revenues. In contrast, the recited energy management system coordinates one or more requests in order to negotiate an energy supply specification, as opposed to providing mere power brokerage. Thus, claim 5 is submitted to be allowable because it depends from an allowable base claim, and because the energy management system limitation it recites is neither disclosed nor suggested by Takriti.

Claim 7 is directed to the first and second sub-systems, where each sub-system comprises a processor and the interfaces of each sub-system provide communications between the processors for automating the optimization of energy supply planning. As described above,

Takriti does not disclose or suggest a sub-system, much less a sub-system processor in communication with another sub-system processor for the optimization of energy supply planning. Thus, claim 7 is submitted to be allowable because it depends from allowable base claim 1, and because the limitation it recites is neither disclosed nor suggested by Takriti.

Claim 8 is directed to each sub-system's interface, where the interfaces exchange messages between the sub-systems. These exchanged messages are associated with the negotiation of an energy supply specification from the energy supplier or suppliers for the energy consumers. Takriti, directed to a tool for unilateral use, does not disclose or suggest any form of negotiation associated with an energy supply specification, nor does it disclose or suggest a system for exchanging messages in order to provide such negotiations. Thus, claim 8 is allowable because it depends directly from claim 7 and indirectly from claim 1, both submitted to be allowable, and because the limitation it recites is neither disclosed nor suggested by Takriti. Col. 2, lines 35-40 of Takriti merely suggests that suppliers and consumers have the freedom to set up a contract with each other under negotiated terms or conditions. Takriti does not disclose or suggest a system and/or method that is capable of handling such a negotiation process, much less subsystems having interfaces for optimizing energy supply planning.

Claim 12 calls for an energy supply specification in which the energy supply specification includes a plurality of energy supply sub-specifications. Takriti does not disclose or suggest an energy supply specification, much less energy supply sub-specifications. Therefore, claim 12 is directed to allowable subject matter because it depends from allowable claim 8, and because the limitation it recites is neither disclosed nor suggested by Takriti.

ii. Claim 35

Claim 35 is directed to a system for planning energy supply for energy consumers. The system includes a first and a second sub-system that communicate with each other over a communication network. Both sub-systems each have an interface for exchanging energy planning information between sub-systems and for negotiating an energy supply specification for the energy consumers.

As indicated above, Takriti's computer-implemented forecasting tool does not disclose or suggest a system that comprises sub-systems, much less sub-systems that comprise an interface

for exchanging energy planning information between sub-systems and for negotiating an energy supply specification for energy consumers. As discussed above, Takriti relates to a computer modeling tool, not to a system that communicates over a communications network in order to negotiate an energy supply specification on behalf of energy consumers. The Office Action recites col. 3, lines 38-40 of Takriti as disclosing applicant's sub-systems, which are each operatively associated with an energy coordinating body. Col. 3, lines 38-40 of Takriti however, is directed to a power broker interested in buying and selling power in order to maximize revenues. An energy coordinating body is not a mere point of sale, but coordinates one or more requests in order to negotiate an energy supply specification. (See applicant's specification at page 17, lines 1-7, and page 18, lines 23-27). Takriti, in sum, fails to disclose or suggest all limitations of claim 35. Thus, in view of the foregoing, claim 35 is submitted to be allowable.

iii. Claim 36

Claim 36 is also directed to a system for planning energy supply for energy consumers. The system includes a first and a second sub-system that communicate with each other over a communication network. Both sub-systems each have an interface for exchanging energy planning information between sub-systems, and for negotiating an energy supply specification for the energy consumers.

As discussed above, Takriti's computer implemented forecasting tool does not disclose or suggest a system that comprises sub-systems, much less, sub-systems that comprise an interface for exchanging energy planning information between sub-systems, and for negotiating an energy supply specification for energy consumers. Because Takriti fails to disclose or suggest features of the claimed invention, claim 36 is submitted to be allowable.

iv. Claims 40-41

Claim 40 is directed to a system for planning energy supply for energy consumers. The system includes a processor that is operatively associated with a communications interface. The processor executes a first routine for exchanging energy planning information with the energy suppliers through the communications interface. A second routine is also executed by the processor, where an energy supply specification is negotiated from the energy suppliers to the energy consumers.

Takriti neither discloses nor suggests a system having a processor that executes subroutines for both exchanging energy planning information with energy suppliers, and negotiating an energy supply specification for energy consumers. Takriti (e.g. at col. 2, lines 30-40) merely recites as background the unsurprising observation that buyer and traders have the ability to execute trades over a network and that suppliers and consumers have the freedom to set up a contract with each other under negotiated terms or conditions. Takriti relates only to a tool for unilateral use, as discussed above; it does not disclose or suggest a negotiation process through the execution of subroutines, as claimed. Nor does Takriti disclose or suggest a communication interface that exchanges energy planning information between the processor and energy suppliers.

Because Takriti fails to disclose the features of the claimed invention involving exchange of energy planning information be exchanged or the negotiation of an energy supply specification to energy consumers, claim 40 is submitted to be allowable.

Claim 41 directly depends from allowable claim 40 and is submitted to be allowable for the same reasons. Moreover, claim 41 describes the first subroutine exchanging at least two messages between the processor and the energy suppliers, the messages related to negotiating an energy supply specification. Takriti does not disclose or suggest the execution of subroutines for negotiating an energy supply specification, nor does it disclose or suggest including a provision for exchanging messages to accomplish such negotiations. For this separate reason as well, claim 41 is submitted to be directed to allowable subject matter.

v. Claim 42-43

Claim 42 is directed to an energy planning interface of an energy management system. The interface includes a processor that is operatively associated with a communications interface. The processor executes a first routine for exchanging energy planning information with the energy suppliers through the communications interface. A second routine is also executed by the processor, whereby an energy supply specification is negotiated from the energy suppliers to the energy consumers.

As described above, Takriti purports to disclose a forecasting tool; it does not disclose or suggest a system having a processor that executes subroutines for both exchanging energy

planning information with energy suppliers, and negotiating an energy supply specification for energy consumers. The passage from Takriti relied on in support of the rejection (col. 2, lines 30-40) merely reports that buyers and traders execute trades over a network and have the freedom to set up an energy purchase contract with each other under negotiated terms or conditions. Takriti neither discloses nor suggests an energy an energy planning interface to an energy management system that is capable of accomplishing a negotiation process through the execution of subroutines. Nor does Takriti disclose or suggest a communications interface that exchanges energy planning information between the processor and energy suppliers.

Because Takriti altogether fails to disclose the features recited in claim 42, that claim is submitted to be allowable over the art of record.

Claim 43 is depends from claim 42 and is submitted to be allowable on the same grounds. Claim 43 also recites that the first subroutine exchanges at least two messages between the processor and the energy management system, the messages related to negotiating an energy supply specification from the energy supplier on behalf of the energy consumers. Takriti does not disclose or suggest the execution of subroutines for negotiating an energy supply specification, nor any exchange of messages to accomplish such negotiations. Claim 43 is submitted, on these separate grounds, to recite patentable subject matter.

vi. Claim 44

Claim 44 is directed to a method of planning energy supply, that comprises exchanging energy planning information between at least one energy coordinating body and at least one energy supplier. The method further includes negotiating an energy supply specification from the energy supplier in response to a request for energy.

As described at length above, Takriti mentions, as background, merely that energy contracts can be negotiated, then presents a price forecasting tool for unilateral use. Col. 3, lines 38-40. Takriti thus does not disclose or suggest the steps of “coordinating requests for energy,” “exchanging energy planning information between an energy coordinating body and a supplier,” or “negotiating an energy supply specification, as cited.” The rejection of claim 44 should accordingly be withdrawn.

vii. Claim 53-54

Claim 53 is directed to a method for planning energy supply similar to the method of claim 44. It is submitted to be allowable for largely the same reasons, and for the additional reasons that the receipt of requests for energy, the exchange of energy planning information and the negotiation of an energy supply specification are conducted via the employment of a global communication network, none of which limitations are disclosed or suggested by Takriti. Applicant therefore submits that the rejection of claim 53 should be withdrawn.

Claim 54 is directly dependent from allowable claim 53 and is therefore submitted to be allowable for the same reasons.

IV. Rejection Under 35 U.S.C. § 103(a)

In the October 23, 2002 Office Action corresponding to the parent application (i.e., Serial No. 09/671,916), claim 2 was rejected as unpatentable over Takriti in view of Robinson et al. (hereinafter Robinson). Claim 37 was rejected as being unpatentable over Takriti in view of U.S. 6,281,601 to Edelman et al. (hereinafter Edelman). Applicant respectfully submits that these rejections are traversed on the basis of the following arguments.

i. Claim 2

In rejecting claim 2 on the grounds of obviousness, the Examiner contends that Robinson supplies the teachings that are necessary to establish a prima facie case of unpatentability, but that are admitted to be missing from Takriti. Claim 2, which, directly depends from rejected independent claim 1, is submitted to be allowable for the same reasons. Moreover, as described above, Takriti does not teach or suggest the recited subsystems, much less local area networks and ICCP servers that are operatively associated with such subsystems. Although Robinson may show an ICCP, it neither teaches nor suggests two ICCP servers, and respective local area networks, operatively associated with each of the two sub-systems, as recited. Even assuming, without conceding, that Takriti and Robinson could be properly combined, their combination would fail to disclose those features of claim 2, as well as a global communications network between the two ICCP servers. Thus, claim 2 is submitted to be allowable not only because it

depends from an allowable base claim, but also because the limitations it recites are neither disclosed nor suggested by the combined references.

ii. Claim 37

In rejecting claim 37 on the grounds of obviousness, the Examiner contends that Edelman supplies the teachings that are necessary to establish a prima facie case of unpatentability, but that are admitted to be missing from Takriti. Claim 37, which directly depends from rejected independent claim 36, is submitted to be allowable for the same reasons. In addition, Applicant submits that the applied references would not be combined in the absence of the teaching provided by the present invention. Moreover, assuming, without conceding, that the references could be combined, they would not disclose, as required, that a plurality of subsystems (as recited) are each operatively associated with a corresponding one of the energy sources said to be disclosed by Edelman. Claim 37 is therefore allowable not only because it depends from an allowable base claim, but also because the limitations it recites are neither disclosed nor suggested by the references, which references are not properly combinable.

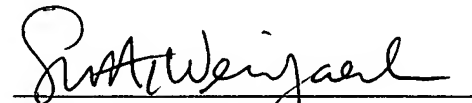
CONCLUSION

Upon entry of this Preliminary Amendment, claims 1-8, 12, 35-37, 40-44, 53 and 54 are pending in the application. Applicant submits that the claims, for the reasons set forth above, are now in condition for allowance. Reconsideration and allowance are therefore respectfully requested.

No fee is believed to be due in connection with this Communication. However, if a fee is required, the Assistant Commissioner is authorized to charge the fee to Deposit Account No. 23-1703.

Dated: January 22, 2004

Respectfully submitted,



Scott T. Weingaertner
Reg. No. 37,756
Attorney for Applicant

Customer No. 007470
White & Case LLP
Direct Line: (212) 819-8404